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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

REBEKAH CHARLESTON; ANGELA
DELGADO-WILLIAMS; and LEAH
ALBRIGHT-BYRD,

Plaintiffs,

vs.

STATE OF NEVADA; STEVE SISOLAK, in his
capacity as Governor of the State of Nevada; and
the LEGISLATURE OF THE STATE OF
NEVADA,

Defendants.

Case No. 3:19-cv-00107-MMD-WGC

**DEFENDANT NEVADA LEGISLATURE'S
MOTION TO EXTEND TIME TO ANSWER
OR RESPOND TO PLAINTIFFS' FIRST
AMENDED COMPLAINT**

(First Request)

MOTION

Defendant Nevada Legislature (Legislature), by and through its counsel the Legal Division of the Legislative Counsel Bureau (LCB) under Nevada Revised Statutes (NRS) 218F.720, hereby files this motion to extend time until April 30, 2019—which is 7 days after the Legislature's session deadline for first House passage of legislation on April 23, 2019—for the Legislature to answer or respond to Plaintiffs' first amended complaint (ECF No. 12) under FRCP 12 and FRCP 15(a)(3). **This is the Legislature's first request to extend time to answer or respond to Plaintiffs' first amended complaint under FRCP 12 and FRCP 15(a)(3).** The Legislature's answer or response to the first amended complaint is due on April 3, 2019, under FRCP 12 and FRCP 15(a)(3).

1 The Legislature's motion to extend time is made under FRCP 6(b) and Local Rule IA 6-1 and is
2 based upon the following Memorandum of Points and Authorities and all pleadings, documents and
3 exhibits on file in this case.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I. Summary of reasons for extension of time.**

6 Plaintiffs filed their original complaint (ECF No. 1) on February 25, 2019, and they filed their first
7 amended complaint on March 18, 2019. Plaintiffs served their first amended complaint on the
8 Legislature by messenger service on March 20, 2019. Therefore, the Legislature's answer or response to
9 the first amended complaint is due on April 3, 2019, under FRCP 12 and FRCP 15(a)(3).

10 The Legislature needs additional time to properly research and address the numerous novel and
11 complex jurisdictional, procedural and constitutional issues raised by Plaintiffs' federal preemption
12 claims challenging the validity of Nevada's statutes and local ordinances licensing and regulating legal
13 brothels. In addition, the Legislature needs additional time to prepare an appropriate answer or response
14 to the first amended complaint because the Legislature and its legal staff are currently engaged in the
15 Legislature's biennial regular legislative session and the Nevada Constitution only gives the Legislature
16 an extremely limited timeframe to perform its lawmaking functions between early February and early
17 June of each odd-numbered year.

18 Within this extremely limited timeframe, the Legislature and its legal staff must follow stringent
19 deadlines under the Joint Standing Rules to effectively and efficiently draft, introduce, hear, consider,
20 review, amend, debate and process hundreds of bills and amendments. For example, during the period
21 leading up to April 23, 2019, the Legislature's legal staff must draft hundreds of amendments to bills
22 and resolutions in order to meet the deadlines in the Joint Standing Rules for committee passage in the
23 first House on April 12, 2019, and for first House passage on April 23, 2019.

1 Therefore, given the stringent deadlines and time constraints of the ongoing legislative session and
2 its extraordinary demands on the time and resources of the Legislature and its legal staff, the Legislature
3 respectfully asks the Court to grant the Legislature’s motion to extend time until April 30, 2019—which
4 is 7 days after the Legislature’s session deadline for first House passage of legislation on April 23,
5 2019—for the Legislature to answer or respond to the first amended complaint under FRCP 12 and
6 FRCP 15(a)(3).

7 **II. Background regarding Plaintiffs’ federal constitutional claims.**

8 In their first amended complaint filed on March 18, 2019, Plaintiffs plead federal constitutional
9 claims pursuant to 42 U.S.C. § 1983 for alleged violations of their civil rights committed by the named
10 Defendants—the State of Nevada; Steve Sisolak in his official capacity as the Governor of the State of
11 Nevada; and the Legislature in its official capacity as the legislative authority of the State of Nevada.
12 Plaintiffs assert federal-question jurisdiction under 28 U.S.C. § 1331 and federal civil-rights jurisdiction
13 under 28 U.S.C. § 1343(a)(3).

14 Plaintiffs claim that, under the Supremacy Clause of Article VI of the United States Constitution,
15 certain federal criminal laws relating to illegal prostitution and sex trafficking preempt the provisions of
16 the Nevada Revised Statutes that give less populated counties in Nevada the local option of allowing
17 businesses to operate “a licensed house of prostitution.” NRS 201.354(1); NRS 244.345(8). In addition,
18 Plaintiffs claim that these federal criminal laws also preempt the local ordinances of the counties that
19 have exercised their local option and elected to license and regulate such businesses, which are more
20 commonly known as legal brothels.

21 However, contrary to this Court’s Local Rules, Plaintiffs have not provided any citations to the
22 relevant local ordinances or, alternatively, attached copies of the local ordinances as exhibits or included
23 them as part of their appendix. Specifically, under this Court’s Local Rules, Plaintiffs had a duty to
24 either: (1) provide proper citations to the legal authorities—including the relevant local ordinances—set

1 forth in their first amended complaint; or (2) if those legal authorities “are not accessible on Westlaw or
 2 LexisNexis,” attach copies of the legal authorities as exhibits to their first amended complaint or include
 3 them in their appendix. Local Rule IA 7-3 & 10-3. Because Plaintiffs’ counsel failed to follow this
 4 Court’s Local Rules, the Legislature’s counsel will be required to spend additional time and resources
 5 doing legal research that Plaintiffs’ counsel should have presented to this Court in the first instance. For
 6 this reason alone, Plaintiffs’ first amended complaint is facially deficient.

7 To support the federal preemption claims in their first amended complaint, Plaintiffs rely on
 8 several federal criminal laws that prohibit a person from engaging in certain unlawful conduct which
 9 involves travel or other acts in or affecting interstate or foreign commerce and which relate to
 10 prostitution or sex trafficking. 18 U.S.C. § 1591(a); 18 U.S.C. § 2422(a); 22 U.S.C. §§ 7101-7114.
 11 Plaintiffs claim that these federal criminal laws preempt Nevada’s statutes and local ordinances
 12 licensing and regulating legal brothels based on their contention that permitting the operation of legal
 13 brothels is in direct conflict with the congressional intent underlying these federal criminal laws to:
 14 (1) “prevent persons from persuading, inducing, enticing, and/or coercing any person to travel across
 15 state lines to engage in prostitution”; and (2) “ensure just and effective punishment of traffickers and to
 16 protect their victims.” (ECF No. 12 at 37-38.) In particular, Plaintiffs claim that:

17 Because the brothel industry in Nevada openly and notoriously persuades, induces,
 18 entices, and coerces individuals to travel in interstate commerce to commit acts of
 19 prostitution, [Nevada’s statutes and local ordinances licensing and regulating legal brothels]
 cannot exist simultaneously with [the federal criminal laws] and thereby [are] preempted
 and in violation of the Supremacy Clause of the U.S. Constitution.

20 (ECF No. 12 at 38-39.)

21 In their prayer for relief, Plaintiffs ask for a declaratory judgment that Nevada’s statutes and local
 22 ordinances licensing and regulating legal brothels are “unconstitutional [and] null and void as preempted
 23 by federal law,” and a preliminary and permanent injunction “prohibiting the State of Nevada and all of
 24 its political subdivisions from implementing, enforcing, or putting into force and effect” Nevada’s

1 statutes and local ordinances licensing and regulating legal brothels. (ECF No. 12 at 39.) Plaintiffs also
2 ask for an order requiring the State of Nevada to allocate funds in an amount not less than \$2,000,000
3 per year to the State Contingency Account for deposit to a special fund, designated as the “Nevada Sex
4 Trade Exit Fund,” to be used specifically to assist persons seeking to exit the sex trade, including,
5 without limitation, providing mental health services, rent assistance, job training, scholarships, funding
6 for childcare, medical treatments, tattoo removal and other assistance. (ECF No. 12 at 39.) Plaintiffs
7 additionally ask that the order: (1) require all persons requesting money from the Nevada Sex Trade Exit
8 Fund to provide proof of having been prostituted in Nevada through legal brothels as a result of the
9 enactment of Nevada’s statutes and local ordinances licensing and regulating legal brothels; and
10 (2) prohibit any person who was ever in brothel ownership or brothel management from receiving
11 money from the Nevada Sex Trade Exit Fund. (ECF No. 12 at 39.) Finally, Plaintiffs ask that the order
12 require the Nevada Sex Trade Exit Fund to remain funded and running for 10 years from the date of the
13 order declaring that Nevada’s statutes and local ordinances licensing and regulating legal brothels are
14 preempted by federal law. (ECF No. 12 at 39.)

15 **III. Reasons for extension of time.**

16 Plaintiffs’ first amended complaint raises numerous novel and complex jurisdictional, procedural
17 and constitutional issues, and the Legislature needs additional time to properly research and address
18 these novel and complex issues and prepare an appropriate answer or response to the first amended
19 complaint under FRCP 12 and FRCP 15(a)(3). In particular, as noted by the Ninth Circuit Court of
20 Appeals, the State of Nevada is “alone among the states” in permitting the operation of legal brothels
21 under “stringent licensing and regulation.” Coyote Publishing, Inc. v. Miller, 598 F.3d 592, 596 (9th
22 Cir. 2010). In Coyote Publishing, the Ninth Circuit held that Nevada’s statutes restricting certain
23 advertising by legal brothels did not violate the First Amendment’s protection of commercial speech.
24 Id. at 602-11. However, the Ninth Circuit did not directly address the constitutional issue of whether

1 any federal criminal laws preempt Nevada's statutes and local ordinances licensing and regulating legal
2 brothels, and based on the Legislature's preliminary research, no other federal court has directly
3 addressed this constitutional issue. Consequently, the Legislature needs additional time to properly
4 research and address the numerous novel and complex jurisdictional, procedural and constitutional
5 issues raised by Plaintiffs' federal claims challenging the validity of Nevada's statutes and local
6 ordinances licensing and regulating legal brothels.

7 In addition, the Legislature needs additional time to prepare an appropriate answer or response to
8 the first amended complaint because the Legislature and its legal staff are currently engaged in the
9 Legislature's biennial regular legislative session and the Nevada Constitution only gives the Legislature
10 an extremely limited timeframe to perform its lawmaking functions between early February and early
11 June of each odd-numbered year. See Nev. Const. art. 4, § 2 (limiting Nevada's regular legislative
12 sessions to 120 consecutive calendar days beginning on the first Monday of February of each odd-
13 numbered year). Within this extremely limited timeframe, the Legislature and its legal staff must follow
14 stringent deadlines under the Joint Standing Rules to effectively and efficiently draft, introduce, hear,
15 consider, review, amend, debate and process hundreds of bills and amendments.

16 For example, during the period leading up to April 23, 2019, the Legislature's legal staff must
17 draft hundreds of amendments to legislative bills and resolutions in order to meet the deadlines in the
18 Joint Standing Rules for committee passage in the first House on April 12, 2019 (68th calendar day of
19 the session), and for first House passage on April 23, 2019 (79th calendar day of the session). See Joint
20 Standing Rule No. 14.3 (Final Dates for Action by Standing Committees and Houses), Assembly
21 Concurrent Resolution No. 1, 80th Leg. (Nev. Feb. 4, 2019) (adopting the Joint Standing Rules of the
22 Senate and Assembly for the 80th Session), accessible on Westlaw at 2019 NV A.R. 1.¹

23
24 ¹ Also available at https://www.leg.state.nv.us/Session/80th2019/Bills/ACR/ACR1_EN.pdf.

1 Therefore, given the stringent deadlines and time constraints of the ongoing legislative session and
2 its extraordinary demands on the time and resources of the Legislature and its legal staff, the Legislature
3 respectfully asks the Court to grant the Legislature's motion to extend time until April 30, 2019—which
4 is 7 days after the Legislature's session deadline for first House passage of legislation on April 23,
5 2019—for the Legislature to answer or respond to the first amended complaint under FRCP 12 and
6 FRCP 15(a)(3).

7 Finally, the Legislature's requested extension will not unduly delay the proceedings or prejudice
8 the rights of Plaintiffs. In particular, Plaintiffs allege that they are all residents of the State of Texas, but
9 Plaintiffs do not allege that they have any presently existing personal contacts or connection with the
10 State of Nevada. (ECF No. 12 at 2-3 & 19-34.) Even though Plaintiffs allege that they are former
11 victims of sex trafficking who were forced to engage in illegal prostitution in Nevada, Plaintiffs do not
12 allege that they presently face any personal threat from illegal prostitution or sex trafficking crimes in
13 the State of Nevada. (ECF No. 12 at 2-3 & 19-34.) Therefore, given that Plaintiffs are not residents of
14 the State of Nevada, have not alleged any presently existing personal contacts or connection with the
15 State of Nevada, and have not alleged any presently existing personal threat from illegal prostitution or
16 sex trafficking crimes in the State of Nevada, Plaintiffs have not demonstrated that they presently face
17 any personal threat of actual or imminent harm from application or enforcement of the challenged
18 statutory provisions in the State of Nevada.

19 Consequently, in the absence of any allegations demonstrating that Plaintiffs presently face any
20 personal threat of actual or imminent harm, Plaintiffs have not established the extraordinary
21 circumstances necessary to justify any expedited treatment of the proceedings in this case. As a result, it
22 would not unduly delay the proceedings or prejudice the rights of Plaintiffs for the Court to grant the
23 Legislature additional time to prepare an appropriate answer or response to the first amended complaint
24 under FRCP 12 and FRCP 15(a)(3).

CONCLUSION

Based upon the foregoing, the Legislature respectfully asks the Court to grant the Legislature's motion to extend time until April 30, 2019—which is 7 days after the Legislature's session deadline for first House passage of legislation on April 23, 2019—for the Legislature to answer or respond to the first amended complaint (ECF No. 12) under FRCP 12 and FRCP 15(a)(3).

DATED: This **29th** day of March, 2019.

Respectfully submitted,

BRENDA J. ERDOES

Legislative Counsel

By: /s/ Kevin C. Powers

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the **29th** day of March, 2019, pursuant to FRCP 5(b) and Local Rule Part IC, I filed and served a true and correct copy of Defendant Nevada Legislature's Motion to Extend Time to Answer or Respond to Plaintiffs' First Amended Complaint, by using the Court's CM/ECF system for electronic service, and by other means as set forth below, directed to the following:

*By means of the Court's CM/ECF system
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